

London Borough of Islington

Licensing Sub-Committee 'D' – 4 March 2014

Minutes of the meeting of Licensing Sub-Committee 'D' held at the Town Hall, Upper Street, N1 2UD on 4 March 2014 at 6.55 pm.

Present: Councillors: Raphael Andrews, Troy Gallagher and Tracy Ismail.

COUNCILLOR TROY GALLAGHER IN THE CHAIR

215 INTRODUCTIONS (Item A1)

Councillor Troy Gallagher welcomed everyone to the meeting and officers and members introduced themselves. The procedure for the conduct of the meeting was outlined and those present were informed that the procedure was detailed on page 5 of the agenda.

216 APOLOGIES FOR ABSENCE (Item A2)

Apologies were received from Councillor Wilson.

217 DECLARATION OF SUBSTITUTE MEMBERS (Item A3)

Councillor Tracy Ismail substituted for Councillor Wilson.

218 DECLARATIONS OF INTEREST (Item A4)

None.

219 ORDER OF BUSINESS (Item A5)

The order of business would be as the agenda.

220 MINUTES (Item A6)

That the minutes of the meetings held on 9 January 2014 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

221 ARDA2, 156A SEVEN SISTERS ROAD, LONDON, N7 7PL - APPLICATION FOR A PREMISES REVIEW (Item B1)

The licensing officer reported that Jeremy Corbyn and the residents who had submitted representations had been unable to attend the hearing. The licensing history was contained within the responsible authority representations. The licensing officer had nothing further to add.

Ms Le Fevre, barrister for the police, stated that the review was submitted under the prevention of crime and disorder objective. The application was triggered by the incident in November 2013 where at least half a kilogram of cocaine was found in the flats above the premises. The individuals living in the flats were employees at the premises. When the housing officer visited, he/she were advised that the condition of the living arrangements was not a problem as the occupants worked downstairs and so had access to the downstairs facilities. Following the seizure of drugs, there had been eight arrests. Four of the people had attended bail; three of these had no action taken against them and one was cautioned. The remaining four people had failed to respond; two of these had the surname Hekuri which was the same surname as the owner and licensee. Mr Grant, barrister for the licensee confirmed that Hekuri was a common name in Albania and that one of the absconders was a distant cousin of the owner, Mr Detar Hekuri, and the other was no relation. Mr Detar Hekuri had provided details and tenancies to the police about the absconders in November 2013. The police representative advised that in 2010, Mr Uruci, who was the DPS until recently, was reprimanded for possession of Class A drugs. Criminal proceedings relating to the seizure of drugs were ongoing.

The noise officer had nothing further to add to her representation detailed in the agenda.

The licensing authority raised concern about the standards of management at the premises and

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the impact on the licensing objectives. Following the licensee having accepted a caution for breach of conditions, conditions continued to be breached. Larger numbers of customers than permitted were being allowed outside the premises after 23:00 even though the licensing authority had relaxed the number restriction from six to ten, CCTV was not provided when requested and the premises was operating after hours. The licensee's track record of non-compliance with conditions indicated that the licensing objectives would not be promoted.

Mr Grant, barrister for the licence holder along with Mr Damalie, the new DPS and Mr Samaroo, Consultant, presented the licensee's case. He explained that there had been failings and that if there was to be a punishment, this would be done in the magistrates' court through criminal proceedings. The focus at the hearing should be on whether in the future the premises could be run in a manner that does not undermine the licensing objectives. Mr Grant stated that this was the case. The previous DPS had been replaced by Mr Damalie who had run reputable clubs and he had spent three weeks at the premises to see if he could take over as DPS without interference from Mr Hekuri and was confident he could do this. Mr Hekuri would still own the premises but would not manage the premises. A new security firm with a good reputation had been hired. Mr Grant stated that the combined effect of new management and security was successfully put to the test on the weekend of 28 February and this had proved that the licensing objectives could be met in future.

Mr Grant raised concern that there was a lack of evidence to support the police's application for review. He reported that the police had previously abandoned a summary review after it was launched without the necessary authorisation and then applied for this standard review which included a number of crime and disorder allegations. However, the police were no longer focussing on these points which were the foundation for the review and were instead focussing on one event – drugs found in tenanted flats above the licensed premises. Mr Grant stated that there was no evidence to link the licence holder to drugs and there were no issues regarding drugs in the restaurant. He explained that at least two of the occupants of the residential accommodation were drug users so it was likely that the drugs were for the private use of these individuals. The owner, Mr Hekuri was not questioned or arrested in relation to the seizure of drugs and the manager Mr Ismail was questioned and released.

Mr Grant explained that the reason Mr Hekuri had failed to apply for the required certificate of lawful use from the planning service despite reminders to do so and had failed to apply for an HMO licence for the residential accommodation above the premises was ignorance. This matter would be addressed. The licensing officer stated that he could provide evidence to assist with the application for a certificate of lawfulness.

Mr Grant advised the Committee that the concerns about public nuisance would be addressed by having Mr Damalie in control. He would ensure compliance. Mr Balabanov would be in charge of security and Mr Grant proposed additional conditions in relation to door supervisors and street marshals as well as other matters. In addition, the licensee was willing to have the hours of operation reduced.

Mr Grant advised that when Mr Samaroo visited the premises, it was well managed and there was compliance with the conditions. Customers were being dispersed gradually. He stated that Seven Sisters Road was a busy, noisy road with significant numbers of cars and buses traveling along it. There were a number of late night premises. Mr Samaroo had witnessed many pedestrians on their way to or from other places and they were not customers of ARDA 2 who could have created a disturbance when they turned into the quieter Berriman Road. Mr Samaroo confirmed that on his visit, the premises appeared to be well run. There had been a dedicated smoking marshal with a maximum of 10 customers and noise from the premises could not be heard on the other side of the street. He stated that the street noise reading was 74 decibels.

Mr Grant stated that the restaurant provided a service for the community and that if customers were asked to be quiet, they would be. The restaurant had a predominantly East European clientele and was often visited by customers for family meals.

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In response to questions, the noise representative stated that when she visited, Mr Hekuri was always managing the premises and she had never met Mr Uruci. The licensing officer stated that Mr Uruci had been present when he had visited. The noise officer had attended and found the premises to be operating after hours and residents had been disturbed by customer noise. Seven Sisters Road was noisy but there were gaps in the traffic and these were when officers listened from residents' homes. At times the doors both sides of the acoustic lobby were open which resulted in noise emission. Berriman Road and Corker Walk were much quieter than Seven Sisters Road and some customers walked down these streets, talking loudly. Improvements had been made after the last noise review. Mr Hekuri supervised customers leaving and door supervisors escorted customers to the cab office on Berriman Road. The noise officer had asked the cab officer to collect customers from the front of ARDA2 but had had no response.

The licensing officer stated that the licensee had breached the CCTV condition on a number of occasions. On two occasions CCTV footage had been requested but had not been supplied. The explanations given on one occasion was that the camera was broken and on the other occasion the footage was unavailable. On another occasion CCTV footage was provided from a number of cameras but not the one which covered the area where the alleged offence took place. A visit had confirmed there was a camera in this area. Mr Hekuri confirmed that CCTV cameras were all in place and functioning.

In response to questions from Mr Grant, the noise officer stated that on her last visit, there were improvements in the way noise was managed with door supervisors and marshals in fluorescent jackets. She also stated that this was to be expected, prior to a review. She witnessed customers walking to Corker Walk to get in their car. They were talking loudly and music from the car could be heard. The officer had attended the premises at the same time as Mr Sumaroo and did not dispute his observations.

In response from questions from the police to the licensee, Mr Ismail confirmed that he had been the manager at night for six months and in the day for two or three years, Mr Damalie confirmed that he lived in Crawley, West Sussex and would work for three nights a week plus when notified by Mr Ismail that it was necessary. The only new member of staff was Mr Damalie.

In her summary, the noise officer stated that if customers were being searched, a female door supervisor was required. Gary Grant confirmed that this could be conditioned.

In summary, Ms Le Fevre disputed the licensee's concerns about the police application and stated that half a kilogram of cocaine had been found following the execution of a warrant, the DPS had accepted prior involvement with Class A drugs and Mr Ismail had stated that the occupiers of the residential accommodation worked in the premises. Apart from Mr Damalie's arrival, there was little change in terms of management. The police preference for searching was an arch rather than wands and should be accompanied by appropriate training.

In summary, the licensing authority officer questioned why searching was necessary if the premises was a restaurant visited by families as had been described by the licensee. The licensing authority favoured mixed use premises but was not convinced that this premises would meet the licensing objectives. If the Sub-Committee was minded to look at additional conditions, it was suggested that the hours of operation be restricted to the council's restaurant policy hours of midnight closing.

In summary, Mr Grant stated that the review was not being heard because of environmental health or licensing matters. It was the police who applied for the review. Cocaine had been found but this was not on the premises and there was no evidence to link this with the premises. The success of the weekend's test had proved nuisance issues could be managed. There was no evidence this was not working, there were good people in control and the new regime should be given a chance to prove itself.

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Members of the Sub-Committee left the room to deliberate before returning to announce their decision.

RESOLVED:

- 1) That the premises licence in respect of ARDA2, 156A Seven Sisters Road, London, N7 7PL be revoked.

REASONS FOR DECISION

The Sub-Committee considered the submissions put forward by the responsible authorities and the applicant and the evidence from interested parties. The Sub-Committee also considered paragraphs 9.12 and 11.24 to 11.28 of the amended Home Office Guidance and the council's licensing policy.

The Sub-Committee decided to revoke the premises licence for the following reasons:

- 1) The Sub-Committee noted that the raid on 8 November 2013 was the trigger offence that led to the police requesting a review of the premises licence. The Sub-Committee noted that the large quantity of Class A drugs were found in the residential accommodation located above the premises; the residential accommodation was owned and under the control of Mr Hekuri and the occupants of the residential accommodation all worked at the premises. The Sub-Committee noted that the criminal investigation in relation to the drug seizure was still under way and there was police intelligence that the police were unable to disclose at this stage. However, there was sufficient evidence before the Sub-Committee for them to be satisfied that the crime prevention objective had not been promoted. The drugs were found in residential accommodation closely associated with the licensed premises and the police investigation linked the drugs to employees of the premises.
- 2) The Sub-Committee were concerned that the former DPS, Mr Uruci had received a police reprimand on 3 January 2010 for possession of cocaine. The Sub-Committee noted from PC Hoppe's evidence that as he was the DPS of a venue where a considerable amount of drugs had been found, strongly indicated that there was a major problem with drugs at the venue. The Sub-Committee noted that Mr Uruci had been removed as the DPS but there were still concerns that the premises would not be able to promote the prevention of crime objective.
- 3) The Sub-Committee noted that the licensing authority was prosecuting the premises licence holder and Mr Hekuri for offences relating to breaches of licensing conditions and for smoking offences on the premises. The noise team and the licensing authority presented details of visits to the premises on numerous occasions when contraventions were identified. The Sub-Committee also noted that there had been a previous review of the premises licence and that Mr Hekuri accepted a caution on 20 September 2012 for a licensing breach at the premises. The Sub-Committee were concerned that despite previous measures, nuisance continued to be caused to local residents, licensing conditions continued to be breached and there had been contraventions regarding maintaining CCTV cameras at the premises. The Sub-Committee were concerned that the licensing objective to prevent public nuisance had not been promoted at the premises.
- 4) Mr Hekuri, through his advocate, submitted to the Sub-Committee that as a new DPS was in place alongside a new security team, Mr Hekuri should be given one final chance. It was submitted that the premises had operated without any problems over the previous weekend as set out in the witness statement of Mr Samaroo, licensing consultant employed by Mr Hekuri. The Sub-Committee noted that the noise team also visited the vicinity of the premises in the early hours of 2 March and noted that customers dispersing from the premises were still causing noise and potential nuisance to residents.

It was also submitted that Mr Hekuri would be taking a back seat. The Sub-Committee noted that the new DPS would be at the premises on Thursdays, Fridays or Saturdays or when he was needed. Mr Ismail, the manager, would notify Mr Damalie, the new DPS if he

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was needed on additional nights.

- 5) The Sub-Committee concluded that Mr Hekuri had been given several previous opportunities to demonstrate that he could promote the licensing objectives and had failed to heed advice and make the necessary management improvements. The Sub-Committee were not satisfied that the newly installed arrangements would be adequate; the manager and staff were still the same, the premises were still under the ownership of Mr Hekuri and that the DPS working three nights a week could not on his own bring about all the changes that would be needed to ensure high standards of management. The Sub-Committee concluded that the licensing objectives would not be promoted and it was therefore proportionate to revoke the premises licence.
- 6) The Sub-Committee noted that Mr Hekuri was prepared to accept the conditions put forward by the police and that he also offered additional conditions. However, the Sub-Committee concluded that the imposition of new conditions would not be sufficient to promote the licensing objectives as Mr Hekuri had previously failed to adhere to his licence conditions and therefore an alternative sanction was required. The premises already had a new DPS in place and therefore the Sub-Committee concluded that the proportionate sanction to impose was revocation.
- 7) In considering the proportionality of revocation, the Sub-Committee looked at the council's Licensing Policy 10 regarding assessing a licensee's ability to demonstrate a commitment to high standards of management. Mr Hekuri failed to meet the required standards as set out below.

Licensing Policy 10

"When assessing the applicant's or licensee's ability to demonstrate a commitment to high standards of management the Licensing Authority will take into account whether the applicant or licensee:

- can demonstrate comprehensive knowledge of best practice
 - has sought advice from the responsible authorities
 - has implemented any advice that had been given by the responsible authorities
 - is able to understand verbal and written advice and legal requirements
 - can demonstrate knowledge of the licensing objectives, relevant parts of the Licensing Policy and their responsibilities under the Licensing Act 2003
 - is able to run their businesses lawfully and in accordance with good business practices
 - is able to demonstrate a track record of compliance with legal requirements"
- 8) The Sub-Committee noted that Mr Hekuri had failed to apply for the required certificate of lawful use from the planning service despite reminders to do so and had failed to apply for an HMO licence for the residential accommodation above the premises.

The meeting ended at 8.35 pm

CHAIR